

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTONIO D. FERGUSON,)	
)	Civil Action No. 09 – 72E
Petitioner,)	
)	District Judge David S. Cercone
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
SUPERINTENDENT DAVID)	
DIGUGLIELMO, ATTORNEY)	
GENERAL OF THE STATE OF)	
PENNSYLVANIA and DISTRICT)	
ATTORNEY OF THE COUNTY OF)	
ERIE, BRADLEY H. FOULK,)	
)	
Respondents.)	

MEMORANDUM ORDER

Pending before the Court is a Motion for Relief from Judgment filed by Petitioner on July 30, 2019. (ECF No. 49.) Petitioner seeks relief pursuant to Federal Rule of Civil Procedure 60(b)(6) and requests that this Court vacate its Order dated August 5, 2010, which denied his Petition for Writ of Habeas Corpus, and either grant him habeas relief or afford him an evidentiary hearing. The Motion was referred to United States Magistrate Judge Lisa Pupo Lenihan pursuant to the Magistrate Judge’s Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court.

On September 23, 2019, Judge Lenihan issued a Report and Recommendation (“R&R”), which recommended that Petitioner’s Motion be dismissed for lack of jurisdiction. (ECF No. 52.) Specifically, she concluded that Petitioner’s Motion was really an impermissible second or successive habeas petition that he had not received permission to file. The R&R was served on

the parties and Petitioner filed timely objections that were docketed October 8, 2019. (ECF No. 54.) However, after careful review, the Court finds that Petitioner's objections do not undermine the R&R's recommended disposition. Accordingly, the Court enters the following Order:

AND NOW, this 21st day of October, 2019;

IT IS HEREBY ORDERED that the Motion for Relief from Judgment (ECF No. 49) is dismissed for lack of jurisdiction.

IT IS FURTHER ORDERED that the R&R (ECF No. 52) is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case closed.

AND IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

s/ David S. Cerccone
David S. Cerccone
United States District Judge

Cc: Antonio D. Ferguson
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Collegeville, PA 19426

Counsel for Respondents
(Via CM/ECF electronic mail)